

IN THE HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD

MONDAY, THE TWENTY SECOND DAY OF JANUARY  
TWO THOUSAND AND TWENTY FOUR

PRESENT

THE HON'BLE SRI JUSTICE C.V. BHASKAR REDDY

ARBITRATION APPLICATION NO: 170 OF 2022

Between:

East Hyderabad Expressway Limited, Through its Authorised representative Mr. Shaik Masthan Having its registered office at The IL and FS Financial Center, Plot No. C-22, G-Block, Bandra Kurla Complex, (East), Mumbai 400051, Maharashtra

...APPLICANT

AND

1. The Hyderabad Metropolitan Development Authority, (previously known as "Hyderabad Urban Development Authority"), Through its Authorised Representative, Present New Address having its principle office at Block A, District Commercial Complex, Tarnaka, Hyderabad, Telangana, 500 007
2. Hyderabad Growth Corridor Limited, Through its Authorised Representative its Registered Office at 2<sup>nd</sup> floor, HGCL office building, Khajaguda Road, Adjacent to ORR, Nankramguda, Hyderabad -500 104

...RESPONDENTS

Arbitration Application Under Section 11 (6) (a) the Arbitration and Conciliation Act, 1996 praying that in the circumstances stated in accompanying affidavit this Hon'ble Court may be pleased to:

- a) Intervene in the matter and to appoint a Nominee Arbitrator of Respondents to resolve the above dispute.
- b) Award costs of the present proceedings in favour of the Applicant and against the Respondents.

**Counsel for the Petitioner: SRI. S RAM BABU**

**Counsel for the Respondents: SRI Y RAMA RAO (SC for HMDA)**

**The Court made the following: ORDER**

**THE HONOURABLE SRI JUSTICE C.V. BHASKAR REDDY**

**ARBITRATION APPLICATION No.170 OF 2022**

**ORDER:**

This application, under Section 11(6)(a) of the Arbitration and Conciliation Act, 1996 (for short "the Act") is filed by the applicant seeking to intervene into the matter and appoint a nominee Arbitrator of Respondents to resolve the dispute.

2. The applicant is a Company incorporated under the provisions of Companies Act, 1956. The respondent No.1 is a statutory body constituted under the provisions of Andhra Pradesh Urban Areas (Development) Act, 1975 and respondent No.2 is a company registered under the Companies Act, 1956. It is stated that respondent No.1 invited proposals under a single stage process from bidders and prescribed commercial terms and conditions for selection of a successful bidder vide Notice Inviting Proposal No.HGC/CGM(T)/ORR/6/2006-07 dated 22.02.2007 *inter alia* for "Design, Construction, Development, Finance, Operation and Maintenance of eight lane access controlled expressway under Phase IIA programme as an extension of Phase I of ORR to Hyderabad city, for the package from Pedda Amberpet to Bongulur from 95.00 KM to 108.00 KM on Build, Operation and Transfer (BOT) (Annuity) Basis" (for short "Project"). In response to the same,

a consortium of (i) M/s. IL & FS Transportation Networks Limited ("ITNL") and (ii) M/s.KMC Constructions Limited, was constituted with ITNL as its lead member for undertaking the project work. The said consortium submitted its Bid for the Project and the same was accepted by the respondents and a letter of acceptance was issued by the respondent No.1 vide its letter dated 14.06.2007. A Concession Agreement dated 03.08.2007 was executed between the applicant and the respondents, containing the detailed terms and conditions in relation to the Project. The said Agreement was subsequently amended vide Supplementary Agreement dated 05.01.2022, whereby Clause 39.2 (arbitration clause) was added with a view to refer the disputes in question to Arbitration. Clause 39.2 (as amended) reads as follows:

*39.2.1 Any Dispute, which is not resolved amicably as provided in Clause 39.1 above shall be finally decided by reference to Arbitration by a Board of Arbitrators, appointed pursuant to Clause 39.2.2. Such arbitration shall be held in accordance with and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996 and amendments thereto.*

*39.2.2 Arbitration shall be conducted by a panel of three Arbitrators each party shall appoint one Arbitrator and the two Arbitrators shall mutually appoint the Presiding Arbitrator. The Arbitration process shall be governed by the Arbitration and Conciliation Act, 1996, and amendments thereto.*

*39.2.3 The arbitrators shall issue a reasoned Award.*

*39.2.4 The seat of such arbitration shall be at Hyderabad, India.*

*39.2.5 The language of arbitration shall be English.*

39.2.6 *The arbitration fee shall be governed by the Fourth Schedule to the Arbitration & Conciliation Act, 1996 and amendments thereto, with a maximum ceiling of Rs. 30 Lakhs payable to each arbitrator, maximum of Rs. 90 Lakhs for entire three members Tribunal. The above fee shall be shared in equal proportion by both the Concessionaire and the Employer"*

3. It is further case of the applicant that "Project Completion Schedule" had to be met not later than 30 months from the Commencement Date, and the period ending on 30<sup>th</sup> month from the Commencement Date was referred to as the "Schedule Project Completion Date" ("SPCD"), which, in the present case, had to fall on or before 09.06.2010. The said condition was subject to the Respondents being able to handover Right of Way ("ROW") for the Site to the Applicant in a timely manner as stipulated under Article 13.5 of the Concession Agreement dated 03.08.2007. It is further case of the applicant that respondents materially failed to handover the Site as stipulated under the Concession Agreement dated 03.08.2007. The abnormal delay in handing over the Site/Right of Way by the respondents severely affected the completion of the Project within the stipulated timeline. According to the applicant, Schedule G of the Concession Agreement dated 03.08.2007, which provides for an Annuity Payment Schedule, entitles the Applicant for 25 Annuities, spread across 12.5 years of the Operations Period. The first and second Annuity Payment Dates, as prescribed in the said Schedule G, were 27.09.2010 and 26.03.2011. Notably, however, R-2, vide its letter dated 05.11.2011 had revised Schedule

G, given the belated declaration of the Commencement Date in the Project. Consequent to the said revision, the first and second Annuity Payment Dates stood amended to 09.12.2010 and 08.06.2011, respectively. It is the specific case of applicant that consequent to delay in handing over the land by the respondents, construction works of the Project witnessed delays and the Applicant was, as such, entitled to an extension of time under the Concession Agreement dt.3.8.2007. It is stated that the correspondence exchanged between the parties reveal that the Applicant made numerous requests to the respondents seeking extension of time. It is further case of the applicant that even after categorical recommendations of the Independent Consultant, the respondents never intimated an extension of time to the applicant. The applicant has referred various correspondences between the applicant and the respondents from 08.01.2009 to 23.06.2017. The respondent No.2 has issued letter dated 23.01.2018 to the applicant's banker directing the bank to release a sum of Rs.29.39 crores to respondent No.2, failing which threatened to recover the said amount from the applicant's 15<sup>th</sup> Annuity Payments, which was payable on 09.12.2017. It is further case of the applicant that in the Proceedings dated 06.03.2018, the respondent No.2 has specifically recorded that I.C verified the Invoice and recommended for payment of Rs.33.3 crores, but the respondent No.2 illegally and in contrary

to the express provisions of the Concession Agreement dated 3.8.2007 deducted Rs.29.39 crores and accorded for payment of Rs.2,99,35,000/- as opposed to Rs.33.30 crores. It is the specific case of the applicant that it has issued a letter dated 16.05.2018 to the respondent No.2, requesting not to recover the said amount and pleaded the respondent to release the 15<sup>th</sup> Annuity, in entirety, besides the Bonus and the 1<sup>st</sup> Annuity which had been due since long time. Despite the applicant's request, the respondents went ahead and illegally recovered a sum of Rs.29.39 crores from 15<sup>th</sup> Annuity. It is the case of applicant that correspondence with the respondents from mid-2018 onwards, clearly establish that both parties were in active consideration of amicably resolving the issues pertaining to release of Bonus, 1<sup>st</sup> Annuity, interest on delayed release of bonus, as well as reimbursement of illegal recoveries from the 15<sup>th</sup> annuity. It is the case of the applicant that even after several meetings and elaborate discussions, the respondents have not accepted to pay the differential amount as per the Agreement and therefore, the applicant was constrained to issue a letter dated 05.10.2020 to the respondents reiterating the demand and for amicable resolution of the matter. It is further case of the applicant that acting on the said representation, a meeting was held on 06.11.2020, wherein respondents admitted that the issue of Bonus and X-factor was being considered by them and that the matter

would be discussed with the Metropolitan Commissioner of respondent No.1. It is further case of the applicant that in the said meeting held on 06.11.2020, the respondents actively considered the applicant's claim for Bonus. Despite so, the respondents did not release the amounts to the applicant. Thereafter, the applicant issued another letter dated 23.06.2021 to the respondents requesting for amicable resolution of the claims i.e, a) bonus, b)reimbursement of monies illegally deducted by the respondents from the 15<sup>th</sup> Annuity c) interest on delayed payment of Annuities and d) release of certain monies withheld by the respondents from the 1<sup>st</sup> Annuity. It is the specific case of the applicant that respondents vide letter dated 13.08.2021 had taken U-turn from their commitments and assurances given in the earlier meetings held on various dates with regard to applicant's claims. It is the case of the applicant that applicant accepted the proposal of respondent No.2 and signed the supplementary agreement dated 05.01.2022 exclusively for amendment of Article 39 of Concession Agreement, wherein the parties shall choose the arbitrators from the Indian Council of Arbitration (ICA) panel in a time bound manner failing which the ICA will nominate the arbitrators. Since the respondents have not come forward to settle the disputes, the applicant issued a letter dated 25.03.2022 to the respondents invoking the arbitration clause between the parties and nominated

Mr. Justice Devinder Gupta, Former Chief Justice of Andhra Pradesh High Court, as its nominee Arbitrator and requested the respondents to nominate an arbitrator on their behalf within a period of 15 days, so that the Arbitral Tribunal may be constituted expeditiously. But the respondents issued a reply letter dated 23.04.2022 disagreeing with the applicant's request stating that the same is barred by limitation. Hence the present arbitration application under Section 11(6) of the Act is filed by the applicant seeking to appoint a nominee Arbitrator on behalf of respondents.

4. A counter affidavit has been filed by the respondents, wherein *inter alia* it is stated that the claims raised by the applicant in the notice invoking clause 39.2 of the Concession Agreement is barred by limitation. It is submitted that Clause 39 of the Concession Agreement provides mechanism for Dispute Resolution between the parties. The said Clause states several steps that need to be done before proceeding with arbitration. Therefore, the Applicant has to meet the requirements as stated under Clause 39.1 of the Concession Agreement and shall mandatorily follow the procedure as agreed to, by the Parties, i.e, Applicant and the Respondents herein and non-compliance of such pre-mandated mechanism will lead to pre-mature Application. It is stated that in the present application, the Applicant only mentioned that the parties were in active consideration of amicably resolving the disputes which arose



in the years 2010, 2011 and further in 2018, but has not disclosed whether the pre-mandated resolution mechanism was followed or not. The Applicant failed to adhere to the terms and conditions of the agreement and also failed to follow the dispute resolution mechanism contemplated under the agreement, which is evident from the letter dated 13.08.2021 issued by the Respondents to the Applicant. In fact, the correspondence also mentions that the claims raised by the Applicant are barred by limitation. It is further submitted that the Applicant did not mention the clause under which it was seeking amicable resolution and failed to refer the disputes to the Independent Consultant. There is no mention about the disputes being referred to the Vice-Chairman of HUDA and the Chairman of the Board or Directors of the Concessionaire. The applicant had raised claims which are merely illustrative and indicative and therefore such vague claims cannot be referred to Arbitration for the reason that any disputes raised should be specific and notified to the other side. It is further stated in the counter affidavit that the Applicant approached this Court without adhering to the terms and conditions of the agreement and without complying the dispute resolution mechanism contemplated under Clause 39 of the Agreement and therefore, the present Application deserves to be dismissed in *limine*.

5. Considered the submissions of the respective counsel and perused the record.
6. It is well settled principle of law that while considering the application filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, this Court has to see whether there is an arbitral dispute between the parties and whether the agreement entered between the parties contains an arbitration clause or not. Further, it is also well-settled law that while deciding the question of appointment of arbitrator, the Court should not touch the merits of the case as it may cause prejudice to the case of the parties.
7. In ***Duro Felguera, S.A. v. Gangavaram Port Ltd.***,<sup>1</sup> the Hon'ble Supreme Court, at para 59, has held as under:

*"The scope of the power under Section 11(6) of the 1996 Act was considerably wide in view of the decisions in SBP and Co. [SBP and Co. v. Patel Engg. Ltd., (2005) 8 SCC 618] and Boghara Polyfab [National Insurance Co.Ltd. v. Boghara Polyfab (P) Ltd., (2009) 1 SCC 267 : (2009) 1 SCC (Civ) 117]. This position continued till the amendment brought about in 2015. After the amendment, all that the courts need to see is whether an arbitration agreement exists nothing more, nothing less. The legislative policy and purpose is essentially to minimise the Court's intervention at the stage of appointing the arbitrator and this intention as incorporated in Section 11(6-A) ought to be respected."*

8. In ***IBI Consultancy (India) (P) Ltd. v. DSC Ltd.***,<sup>2</sup> the Hon'ble Supreme Court while dealing with the Arbitration Application filed

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<sup>1</sup> (2017) 9 SCC 729

<sup>2</sup> (2018) 17 SCC 95

under Section 11(6) read with Section 11(9) of the Arbitration and Conciliation Act, 1996 for appointment of arbitrator to adjudicate the disputes that have arisen between the parties therein in connection with the contracts in question, has held, at Para 8, as under:

*8. The first and the foremost thing is the existence of an arbitration agreement between the parties to the petition under Section 11 of the Act and the existence of dispute(s) to be referred to arbitrator is condition precedent for appointing an arbitrator under Section 11 of the Act. It is also a well-settled law that while deciding the question of appointment of arbitrator, the court has not to touch the merits of the case as it may cause prejudice to the case of the parties. The scope under Section 11(6) read with Section 11(9) is very limited to the extent of appointment of arbitrator. This Court has to see whether there exists an arbitration agreement between the parties and if the answer is in the affirmative then whether the applicant has made out a case for the appointment of arbitrator.*

**9. In *Northern Railway Administration, Ministry of Railway, New Delhi v. Patel Engineering Company Limited*<sup>3</sup>, a three-Judge Bench of Hon'ble Supreme Court held that the Hon'ble Chief Justice or the designated Judge, if required, is free to deviate from the arbitration clause and nominate an independent person; but while doing so, due regard shall be given to the qualifications prescribed in the arbitration agreement, as required under Section 11(8) of the Arbitration and Conciliation Act.**

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<sup>3</sup> (2008) 10 SCC 240

10. In *Indian Oil Corporation and others v. Raja Transport Private Limited*<sup>4</sup> the Hon'ble Supreme Court has elaborately discussed the scope of Section 11 of the Act and held that if the circumstances so warrant, the Hon'ble Chief Justice or the designated Judge can ignore the specified arbitrator as stipulated in the agreement. Paras 45 and 48, to the extent relevant, reads as follows:

"45. If the arbitration agreement provides for arbitration by a named arbitrator, the courts should normally give effect to the provisions of the arbitration agreement. But as clarified by Northern Railway Admn., where there is material to create a reasonable apprehension that the person mentioned in the arbitration agreement as the arbitrator is not likely to act independently or impartially, or if the named person is not available, then the Chief Justice or his designate may, after recording reasons for not following the agreed procedure of referring the dispute to the named arbitrator, appoint an independent arbitrator in accordance with Section 11(8) of the Act. In other words, referring the disputes to the named arbitrator shall be the rule. The Chief Justice or his designate will have to merely reiterate the arbitration agreement by referring the parties to the named arbitrator or named Arbitral Tribunal. Ignoring the named arbitrator/Arbitral Tribunal and nominating an independent arbitrator shall be the exception to the rule, to be resorted for valid reasons.

xxxx xxxx xxxx xxxx xxxx

48. In the light of the above discussion, the scope of Section 11 of the Act containing the scheme of appointment of arbitrators may be summarised thus:

- (i) Where the agreement provides for arbitration with three arbitrators (each party to appoint one arbitrator and the two

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<sup>4</sup> (2009) 8 SCC 520

*appointed arbitrators to appoint a third arbitrator), in the event of a party failing to appoint an arbitrator within 30 days from the receipt of a request from the other party (or the two nominated arbitrators failing to agree on the third arbitrator within 30 days from the date of the appointment), the Chief Justice or his designate will exercise power under sub-section (4) of Section 11 of the Act.*

*(ii) Where the agreement provides for arbitration by a sole arbitrator and the parties have not agreed upon any appointment procedure, the Chief Justice or his designate will exercise power under sub-section (5) of Section 11, if the parties fail to agree on the arbitration within thirty days from the receipt of a request by a party from the other party.*

*(iii) Where the arbitration agreement specifies the appointment procedure, then irrespective of whether the arbitration is by a sole arbitrator or by a three-member Tribunal, the Chief Justice or his designate will exercise power under sub-section (6) of Section 11, if a party fails to act as required under the agreed procedure (or the parties or the two appointed arbitrators fail to reach an agreement expected of them under the agreed procedure or any person/institution fails to perform any function entrusted to him/it under that procedure).*

*(iv) While failure of the other party to act within 30 days will furnish a cause of action to the party seeking arbitration to approach the Chief Justice or his designate in cases falling under sub-sections (4) and (5), such a time-bound requirement is not found in sub-section (6) of Section 11. The failure to act as per the agreed procedure within the time-limit prescribed by the arbitration agreement, or in the absence of any prescribed time-limit, within a reasonable time, will enable the aggrieved party to file a petition under Section 11(6) of the Act.*

*(v) Where the appointment procedure has been agreed between the parties, but the cause of action for invoking the jurisdiction of the Chief Justice or his designate under clauses (a), (b) or (c) of sub-section (6) has not arisen, then the question of the Chief Justice or*

his designate exercising power under sub-section (6) does not arise. The condition precedent for approaching the Chief Justice or his designate for taking necessary measures under sub-section (6) is that

- (i) a party failing to act as required under the agreed appointment procedure; or
  - (ii) the parties (or the two appointed arbitrators) failing to reach an agreement expected of them under the agreed appointment procedure; or
  - (iii) a person/institution who has been entrusted with any function under the agreed appointment procedure, failing to perform such function.
- (vi) The Chief Justice or his designate while exercising power under sub-section (6) of Section 11 shall endeavour to give effect to the appointment procedure prescribed in the arbitration clause.
- (vii) If circumstances exist, giving rise to justifiable doubts as to the independence and impartiality of the person nominated, or if other circumstances warrant appointment of an independent arbitrator by ignoring the procedure prescribed, the Chief Justice or his designate may, for reasons to be recorded ignore the designated arbitrator and appoint someone else."

11. In **North Eastern Railway and others vs. Tripple Engineering Works**<sup>5</sup> also the Hon'ble Supreme Court reiterated the position that the Hon'ble Chief Justice or the designated Judge was free to deviate from the terms of the contract. Paragraphs-6 and 7 of the said judgment read as follows:

"6. The "classical notion" that the High Court while exercising its power under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter for short "the Act") must appoint the arbitrator as per the

<sup>5</sup> (2014) 9 SCC 288

contract between the parties saw a significant erosion in *ACE Pipeline Contracts (P) Ltd. v. Bharat Petroleum Corpn. Ltd.* wherein this Court had taken the view that though the contract between the parties must be adhered to, deviations therefrom in exceptional circumstances would be permissible. A more significant development had come in a decision that followed soon thereafter in *Union of India v. Bharat Battery Mfg. Co. (P) Ltd.* wherein following a three-Judge Bench decision in *Punj Lloyd Ltd. v. Petronet MHB Ltd.* it was held that once an aggrieved party files an application under Section 11(6) of the Act to the High Court, the opposite party would lose its right of appointment of the arbitrator(s) as per the terms of the contract. The implication that the Court would be free to deviate from the terms of the contract is obvious.

7. The apparent dichotomy in *ACE Pipeline and Bharat Battery Mfg. Co. (P) Ltd.* was reconciled by a three-Judge Bench of this Court in *Northern Railway Admn. v. Patel Engg. Co. Ltd.* wherein the jurisdiction of the High Court under Section 11(6) of the Act was sought to be emphasised by taking into account the expression "to take the necessary measure" appearing in sub-section (6) of Section 11 and by further laying down that the said expression has to be read along with the requirement of sub-section (8) of Section 11 of the Act. The position was further clarified in *Indian Oil Corpn. Ltd. v. Raja Transport (P) Ltd.* Para 48 of the Report wherein the scope of Section 11 of the Act was summarised may be quoted by reproducing sub-paras (vi) and (vii) herein below: (*Indian Oil case*, SCC p. 537)

"48. (vi) The Chief Justice or his designate while exercising power under sub-section (6) of Section 11 shall endeavour to give effect to the appointment procedure prescribed in the arbitration clause.

(vii) If circumstances exist, giving rise to justifiable doubts as to the independence and impartiality of the person nominated, or if other circumstances warrant appointment of an independent arbitrator by ignoring the procedure prescribed, the Chief Justice or his designate may, for reasons to be recorded ignore the designated arbitrator and appoint someone else."

(emphasis in original)"

12. The decision in ***Indian Oil Corporation and others v. Raja Transport Private Limited*** (supra), was upheld by the Hon'ble Supreme Court in a subsequent decision reported in ***Union of India vs. Besco Limited***<sup>6</sup>.

13. In the case on hand, it is the case of applicant that it had issued a letter dated 25.03.2022 to the respondents invoking the arbitration clause between the parties and nominated Mr. Justice Devinder Gupta, Former Chief Justice of Andhra Pradesh High Court, as its nominee Arbitrator and requested the respondents to nominate an arbitrator on their behalf within a period of 15 days, so that the Arbitral Tribunal may be constituted expeditiously. But the respondents vide reply letter dated 23.04.2022 rejected the request of the applicant stating that the same is barred by limitation. There is no provision in the Arbitration and Conciliation Act, 1996 specifying the period of limitation for filing an application under Section 11 of the Act and therefore, one would have to take recourse to the Limitation Act, 1963. Section 43 of the Arbitration and Conciliation Act, 1996 provides that the Limitation Act shall apply to arbitrators, as it applies to proceedings in Court. Since none of the Articles in Schedule to the Limitation Act, 1963 provide a time period for filing an application for appointment of arbitrator under Section 11 of the Act, it would be covered by the residual provision

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<sup>6</sup> (2017) 14 SCC 187



under Article 137 of the Limitation Act which provides that the period of limitation is three years for any other application for which no period of limitation is provided elsewhere in the division. Therefore, the limitation period of three years for filing an arbitration application would commence from the date when the cause of action arose. Admittedly, in the instant case, the applicant has issued a letter dated 25.03.2022 to the respondents nominating Mr. Justice Devinder Gupta, Former Chief Justice of Andhra Pradesh High Court, as its nominee Arbitrator as per Clause 39 of the Supplementary Agreement dated 05.01.2022 and requested the respondents to nominate an arbitrator on their behalf within a period of 15 days, so that the Arbitral Tribunal may be constituted expeditiously. The respondents have rejected the request of the applicant vide letter dated 23.04.2022. For the purpose of cause of action, limitation has to be calculated from the date of assertion of claim. Once the applicant has asserted its claim and the respondents fails to respond to such claim, such failure will be treated as a denial of the applicant's claim giving rise to a dispute. Whether the applicant's claim is barred by lapse of time is a matter which requires to be decided by the Arbitral Tribunal at the time of making an order under Section 20 of the Arbitration and Conciliation Act, 1996.

14. Pending adjudication of the arbitration application, the respondents have filed a memo dated 27.06.2023 suggesting the name of Sri M.Krishna Murthy, Retd. Chief Engineer, R & B Department, as nominee Arbitrator on their behalf. The applicant has taken serious objection to the name proposed by the Arbitrator stating that in view of Fifth Schedule of the Arbitration and Conciliation Act, 1996 he is disqualified to be appointed as Arbitrator, as he was an Ex-employee of the organization. Thus there is no unanimity among the parties in appointing nominee Arbitrator on behalf of respondents. As per Clause 39.2.2 of the contract, arbitration shall be conducted by a panel of three Arbitrators, each party shall appoint one Arbitrator and the two Arbitrators shall mutually appoint the Presiding Arbitrator. The applicant has already proposed the name of Mr. Justice Devinder Gupta, Former Chief Justice of Andhra Pradesh High Court (resident of Flat No.A-61, 3<sup>rd</sup> Floor, South Extension, Part-II, New Delhi-110 049) as its nominee Arbitrator on its behalf. Therefore, Mr.Justice Devinder Gupta, Former Chief Justice of Andhra Pradesh High Court, shall be the nominee Arbitrator on behalf of applicant.

15. Since the respondents failed to appoint the nominee arbitrator on their behalf within a period of fifteen 15 days from the date of request from the applicant, this Court deems it appropriate to appoint nominee Arbitrator on behalf of respondents under Section

11(6) of the Arbitration and Conciliation Act. Therefore, Sri Justice V.V.S.Rao, Former Judge of Andhra Pradesh High Court (resident of H.No.165/3, Street No.6, Baghlingampally, Hyderabad-44) is appointed as nominee Arbitrator on behalf of respondents.

16. Both the nominee Arbitrator on behalf of applicant and the nominee Arbitrator on behalf of respondents, shall mutually appoint the Presiding Arbitrator. The Arbitration process shall be governed by the provisions of Arbitration and Conciliation Act, 1996, and amendments thereto. Needless to state that the parties are at liberty to raise all such objections as are permissible to be raised under the provisions of the Arbitration and Conciliation Act, 1996.

17. Registry to inform and communicate a copy of this order to the learned Arbitrators.

18. Accordingly, this Arbitration Application is disposed of.

Miscellaneous Applications, if any, pending in the Arbitration Application shall stand closed.

SD/- M.VIJAYA BHASKER  
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

One Fair Copy to the Hon'ble Sri Justice C.V.BHASKAR REDDY  
(For His Lordship's kind Perusal)

To

1. Mr. Justice Devinder Gupta, Former Chief Justice of Andhra Pradesh High Court, resident of Flat No.A-61, 3<sup>rd</sup> Floor, South Extension, Part-II, New Delhi-110 049. (By Speed Post) (Along with a Copy of affidavit and material papers)
2. Sri Justice V.V.S.RAO, Former Judge of Andhra Pradesh High Court, resident of H.No. 165/3, Street No.6, Baghlingampally, Hyderabad-44 (By Special Messenger) (Along with a Copy of affidavit and material papers)
3. 11 LR Copies

4. The Under Secretary, Union of India Ministry of Law, Justice and Company Affairs, New Delhi
5. The Secretary, Advocates Association Library, High Court for the State of Telangana, High Court Buildings at Hyderabad.
6. One CC to SRI. S. RAM BABU, Advocate [OPUC]
7. One CC to SRI. Y. RAMA RAO, Advocate [OPUC]
8. Two CD Copies

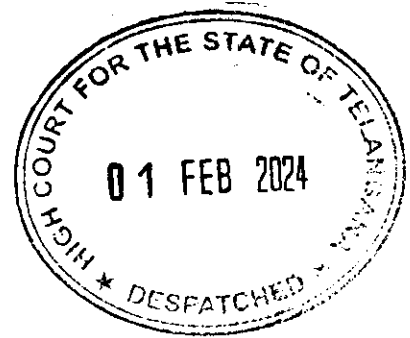
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HIGH COURT

DATED: 22/01/2024

ORDER  
ARBAPPL.No.170 of 2022



DISPOSING OF THE ARBITRATION  
APPLICATION

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